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67108-309 PUS1
Khan 2-52

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Khan, Farooq Ullah
Serial Number: 09/660,098
Filed: 09/12/2000
Group Art Unit: 2637
Examiner: Munoz, Guillermo
Title: METHOD AND APPARATUS FOR ASYNCHRONOUS
INCREMENTAL REDUNDANCY TRANSMISSION IN A
COMMUNICATION SYSTEM

PETITION PURSUANT TO 37 CFR §1.137(b)
TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant hereby petitions to have this application revived. This application was unintentionally abandoned for failure to respond the Office Action of June 9, 2004. Upon discovering that this application was unintentionally abandoned, a reply to the office action (filed concurrently with this petition) and this petition were prepared. The entire delay in filing the required reply from the due date for the reply until the filing of this petition was unintentional.

Applicant respectfully requests revival of this application.

Applicant believes that fees in the amount of \$1,500.00 are required for the petition fee. A check in the amount of \$1,500.00 is enclosed. The Commissioner is authorized to charge Deposit

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Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully submitted,

CARLSON, GASKEY & OLDS

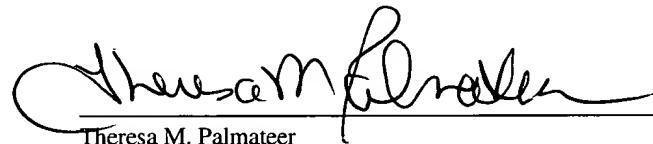
By: 

David J. Gaskey, Reg. No. 37,139
400 W. Maple Rd., Ste. 350
Birmingham, MI 48009
(248) 988-8360

Dated: February 16, 2007

CERTIFICATE OF MAILING

I hereby certify that the enclosed **Petition** is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop AF, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on February 16, 2007.


Theresa M. Palmateer

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RESPONSE

Mail Stop AF
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This is responsive to the Office Action mailed on June 9, 2004. This response is being submitted with a Petition to Revive this application, which was unintentionally abandoned.

Applicant respectfully requests reconsideration of this application.

In the Office Action, the Examiner indicated that claims 2-4 are allowable. Applicant appreciates the indication of allowable subject matter. For the following reasons, Applicant respectfully submits that claims 1 and 5 are also allowable.

Claims 1-5 were rejected under 35 U.S.C. §103 based upon the *Wellig* reference (U.S. Patent No. 6,505,034) combined with "Applicant admitted prior art." Applicant respectfully traverses this rejection. The Examiner suggests combining information identifying a subscriber with the transmission described at column 2, line 66 – column 3, line 2 of the *Wellig* reference. The proposed combination cannot be made because there is no benefit provided by it. Where a

proposed modification to a reference does not provide any benefit, the combination cannot be made and there is no *prima facie* case of obviousness.

In this instance, there is no benefit to making the Examiner's proposed combination because the message described at column 2, line 66 – column 3, line 2 of the *Wellig* reference is a feedback message from a receiver. There would be no benefit to adding subscriber information to that message because it is already known what device is providing the feedback message. Adding subscriber information is meaningless because the feedback message is being provided to a receiver that does not require itself to be identified as a subscriber. Basically, the feedback message is identifying whether a received packet was received in error or not received at all, for example. Adding subscriber information to such a feedback message does not provide any benefit and, therefore, the combination cannot be made.

Further, Applicant respectfully submits that the interpretation of the *Wellig* reference as being otherwise consistent with Applicant's claims is incorrect. There is nothing in the *Wellig* reference that supports the Examiner's interpretation that *Wellig* teaches "waiting to receive an interrupt signal from a scheduling algorithm resulting from the information being applied to the scheduling algorithm." There is nothing in the *Wellig* reference that teaches that portion of Applicant's claim 1.

Additionally, the message relied upon by the Examiner at the end of column 2 and the beginning of column 3 of the *Wellig* reference is a feedback message. Accordingly, that message does not have information to be transmitted, identification information and an information status flag that indicates whether the information to be transmitted is new information or continue information. A feedback message does not constitute new information or a continue information, for example. Accordingly, the interpretation of the *Wellig* reference as being consistent with

Applicant's claimed invention (apart from the identification information that the Examiner acknowledges is not within the *Wellig* reference) is incorrect. It follows that even if the Examiner's proposed combination could be made, the result would not be the same as Applicant's claimed invention. Therefore, there is no *prima facie* case of obviousness.

Additionally, none of the transmissions in the *Wellig* reference are timed based on an interrupt signal as claimed by Applicant. The only action taken in response to *Wellig*'s feedback message is to increase uplink bandwidth to permit more feedback messages. That is not the same as what Applicant claims. There is no *prima facie* case of obviousness.

Applicant respectfully submits that all claims are allowable. If the Examiner believes that a telephone conference would facilitate moving this case forward to being issued, Applicant's representative will be happy to discuss any issues regarding this application and can be contacted at the telephone number indicated below.

Respectfully submitted,

CARLSON, GASKEY & OLDS

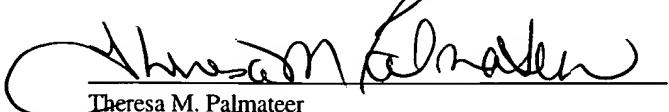

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Theresa M. Palmateer